
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No:	AB 468	Hearing Date:	6/20/2023
Author:	Quirk-Silva		
Version:	4/11/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Aiyana Cortez		

SUBJECT: State building standards

DIGEST: This bill allows any structure used for human habitation to be declared to be a substandard building regardless of the zoning or approved use of the building, and makes other changes to code enforcement procedures.

ANALYSIS:

Existing law:

- 1) Defines a substandard building as any building or portion thereof in which there exists specified conditions that endanger the life, limb, health, property, safety, or welfare of the public or the occupants thereof, including:
 - a) Inadequate sanitation;
 - b) Structural hazards or inadequate structural resistance to horizontal forces;
 - c) Any nuisance;
 - d) Hazardous wiring, mechanical equipment, or construction equipment;
 - e) Plumbing that is not in good and safe condition;
 - f) Faulty weather protection;
 - g) Any building, device, equipment, combustible waste, or vegetation that, in the opinion of the fire department, could cause a fire or explosion or provide fuel to augment the spread and intensity of fire or explosion;
 - h) Accumulations of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent habitats, stagnant water, combustible materials, and similar materials or conditions that constitute fire, health, or safety hazards; and
 - i) Buildings that have been inadequately maintained per the California Building Code (CBC), that are not provided with adequate exit facilities, that lack fire-resistive construction or fire-extinguishing systems or equipment required by code, or are occupied for living, sleeping, cooking, or dining

purposes that were not intended or designed to be used for those occupancies.

- 2) Provides that any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of state habitability laws, the building standards as specified, and certain other rules that the enforcement agency has the power to enforce.
- 3) Establishes that any tenant who is displaced or subject to displacement from a residential rental unit as a result of a specified violation where the immediate health and safety of the residents is endangered, is entitled to receive relocation benefits from the owner.
- 4) Requires the lessor of a building intended for human occupancy, in the absence of an agreement to the contrary, to keep it in a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenable unless otherwise provided for in law.

This bill:

- 1) Defines a “substandard building” to mean any building, including any building used for human habitation, that is declared substandard under state habitability laws.
- 2) Provides that any building or portion thereof in which there are specified substandard conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the occupants of the building, nearby residents, or the public, may be declared a substandard building regardless of zoning designations or approved uses of the building.
- 3) Requires relocation assistance for any lawful tenant renting a unit used for human habitation in a building that is deemed substandard, regardless of the zoning designation or approved uses of the building.
- 4) Expands existing nuisance abatement requirements to apply when there is an immediate threat to health and safety of nearby residents.
- 5) Provides that, if an enforcement agency determines a building is substandard based solely on the building being occupied, the agency is prohibited from commencing court proceedings to abate the violation by repair if all of the following conditions are met:
 - a) The building owner declares under penalty of perjury that the occupant is illegally occupying the building;

- b) The owner filed and is diligently prosecuting an unlawful detainer action against the occupant; and
 - c) The enforcement agency determines the building poses no risk to lawful occupants, nearby residents, or the public.
- 6) Provides that the appointment of a receiver for a substandard building as a result of reasons other than the substandard condition does not prevent an enforcement agency from seeking, or the court from appointing or replacing, a receiver based on the substandard nature of the building. In those cases, both statutory provisions allowing appointment of a receiver apply.
 - 7) Allows a receiver, with court approval, to place a lien on the real property of the substandard building to pay for services performed by and any moneys owed to the enforcement agency.
 - 8) Provides that the court's authority to retain ownership of a substandard building for 18 consecutive months after a receiver has been discharged may be extended by order of the court to ensure continued compliance with a court order.
 - 9) Specifies that an appeal of a court order or judgment issued pursuant to substandard building laws does not stay proceedings upon the order or judgment, absent an extraordinary writ issued by the appropriate appeals court upon a properly filed petition.
 - 10) Specifies that, for the purpose of laws related to substandard buildings, "petition" includes a complaint.
 - 11) Updates an inaccurate cross-reference.
 - 12) Provides that when a new owner acquires an ownership interest in a property subject to specified requirements to correct a code enforcement violation, the owner must also cover the costs and fees of the receiver or enforcement agency.

COMMENTS:

- 1) *Author's statement.* "California's housing crisis, including lack of affordable housing and homelessness is critical. We have provided billions of dollars to combat this severe problem. However, this crisis has multiple layers which affect individuals, families, communities and the state on various levels. Providing a bed is not a solution. It is a temporary service provided each night. There are no guarantees to a bed, and if there are, shelters have been ridden with their own crisis; overcrowding, broken showers and toilets, theft, and abuse. The other options are living on the streets, which come with its own set

of safety and health problems or living in warehouses, factories, and buildings without proper permits and oversight. We need to better empower local and state agencies to deal with vacant dilapidated commercial and industrial building that should be brought up to code, and ideally, returned to a beneficial use in the community, perhaps even much needed safe housing.”

- 2) *Substandard buildings.* State law defines a substandard building as any building or part of a building with specified problems that endanger the life, limb, health, property, safety, or welfare of the public or the buildings occupants. Examples of substandard building conditions include sanitation deficiencies (e.g., pests, lack of water or heat, the presence of mold, etc.), structural problems, fire hazards, and lack of sufficient exits. Substandard conditions can create serious health and safety risks for the people living in a building and for the larger community. Code enforcement officers conduct an inspection and cite any violations on a complaint basis. When violations are so severe that an order to vacate the property is issued, the property owner is required to pay relocation costs for tenants while remediation or demolition occurs.
- 3) *Habitability requirements.* Existing habitability requirements only apply to buildings officially approved for human habitation. As the state's housing crisis has continued to worsen in recent years, the scarcity of affordable housing options has forced greater numbers Californians into unpermitted dwellings not intended for housing. In these situations tenants pay rent to live in a building that is not officially approved to be used for human habitation, such as an unpermitted addition or alteration to a residential dwelling, a warehouse, or other non-residential building. Los Angeles County is estimated to have at least 200,000 informal housing units that have not been approved for human habitation. Unfortunately, the lack of safety standards in these arrangements can have life and death consequences, as seen in the 2016 Ghost Ship warehouse fire in Oakland that killed 36 people. Despite not being approved for human habitation or assembly, the Ghost Ship warehouse had been leased to artists who lived and worked in the building.

Another recent example of this type of housing was seen in the January 23, 2023 mass shooting that took place at two Half Moon Bay mushroom farms, where farmworkers – including the shooter – were allegedly paying rent to farm owners in order to live in severely substandard housing accommodations that were not properly permitted and had never been inspected by county building officials.

- 4) *Expanding code enforcement authority.* This bill proposes to expand the definition of a substandard building to include all buildings used for human habitation, regardless of the zoning or approved use. In cases where an order to vacate is issued, the bill would require building owners to provide relocation assistance to tenants paying rent to live in unpermitted buildings. This change would help lessen the impact of this disruption on the tenants living in those buildings, as they will have to be provided some financial assistance that would help them move to new housing or stay in a hotel while searching for new housing or awaiting repairs to be completed and new permits to be issued, if applicable. Furthermore, this bill makes several other minor changes to provisions that are intended to make it easier for local enforcement agencies and building receivers to be repaid for costs they incur, and to clarify certain procedural steps after a substandard building has gone into receivership.
- 5) *Questions of legal occupancy.* To address concerns that a vacant building with an illegal occupant (a "squatter") might somehow be tagged by an enforcing agency for repairs even when the building was not intended to be inhabited, the bill creates a process for a building owner to declare under penalty of perjury that an occupant is illegally occupying the building and the owner has filed and is diligently prosecuting an unlawful detainer against that occupant. In this instance, the enforcing agency would be prohibited from seeking repairs for substandard conditions in that building unless there is some risk to lawful occupants, nearby residents, or the public. However, it is unclear how proof of "illegal occupancy" and "diligently prosecuting" would be evaluated. *Moving forward, the authors may wish to clarify these terms.*
- 6) *Double-referral.* This bill has also been referred to the Senate Judiciary Committee.

RELATED LEGISLATION:

AB 548 (Boerner, 2023) — requires local enforcement agencies to develop policies and procedures for inspecting multiple units in a building if an inspector or code enforcement officer has determined that a unit in that building is substandard or is in violation of state habitability standards. *This bill is being heard at this same hearing.*

AB 1858 (Quirk-Silva, 2022) — was substantially similar to this bill. *This bill was held in the Assembly Appropriations Committee.*

AB 838 (Friedman, Chapter 351, Statutes of 2021) — required local governments to respond to a substandard building or a lead hazard violation complaint from a tenant or specified others in a timely manner.

SB 1415 (McGuire, 2018) — was substantially similar to this bill, though it would have also required inspections of buildings used for human habitation, regardless of zoning or permitted use. Also included provisions related to fire inspections. This bill was vetoed by the Governor:

Local officials can already decide what and when to inspect. Some jurisdictions, such as the City of Sacramento, have established a program to monitor vacant buildings. The City of Oakland has a program to conduct frequent inspections of commercial buildings.

Local governments have a better understanding of the type of local inspections needed in their communities. Let's leave these decisions to the sound discretion of local governments.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

California Association of Code Enforcement Officers (Sponsor)
California Building Officials
City of Thousand Oaks

OPPOSITION:

None received.

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